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STATE OF TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE

BEFORE THE TENNESSEE BOARD FOR LICENSING CONTRACTORS

BOARD MEETING  
September 23, 2008

Mariott Knoxville  
500 Hill Avenue, S.E.  
Knoxville, Tennessee

BOARD MEMBERS

Larry Parks, Chairman  
Cindi G. DeBusk, Vice Chairman  
Keith Whittington, Secretary  
Frank Neal, Public Member  
Reece Smith, III, Residential  
Jack Ronnie Tickle, Residential  
Cliff Hunt, Highway

STAFF MEMBERS

Wayne Pugh, Esq.  
Counsel for the Board  
  
Carolyn Lazenby  
Executive Director  
  
Talise Roberts  
Assistant Director

MINUTES OF BOARD MEETING PROCEEDINGS  
  
SEPTEMBER 23, 2008

00002

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 TRANSCRIPT OF BOARD MEETING

2 The following is a transcript of the  
3 meeting of the Tennessee Board for Licensing Contractors,  
4 which came on to be held on this the 23rd day of September  
5 2008, Chairman Larry Parks presiding, the meeting being  
6 conducted at the Mariott Knoxville, 500 Hill Avenue, S.E.,  
7 Knoxville, Tennessee.

8 \* \* \* \* \*

9 MR. PARKS: We will begin with the roll  
10 call on my left.

11 MR. HUNT: Cliff Hunt, Memphis.

12 MR. TICKLE: Jack Tickle, Memphis.

13 MR. SMITH: Reece Smith, Franklin.

14 MR. WHITTINGTON: Keith Whittington,  
15 Johnson City.

16 MR. PARKS: Larry Parks, Chattanooga.

17 MS. DeBUSK: Cindi Debusk, Knoxville.

18 MR. NEAL: Frank Neal, Nashville.

19 MR. PARKS: Thank you. At this time on  
20 the agenda is the review and approval and adoption of the  
21 agenda that is inside our notebook. Does anybody have any  
22 additions to that?

23 MR. WHITTINGTON: I would like to add  
24 one. And that is a discussion for the qualifying agent  
25 requirements.

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00003

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 MR. PARKS: Okay. Anybody else have  
2 anything?  
3 (Nothing indicated)  
4 MR. PARKS: May I have a motion to adopt  
5 the amendment?  
6 MR. WHITTINGTON: So move.  
7 MR. PARKS: Do I hear a second?  
8 MR. NEAL: Second.  
9 MR. PARKS: All in favor, say aye.  
10 (Vote is taken)  
11 MR. PARKS: Motion carries. Thank you.  
12 Ratification of partnerships approved by the Executive  
13 Director. They are behind tab 1. I need a motion for  
14 acceptance of those various changes that are hardship  
15 increases, et cetera.  
16 MR. SMITH: What are they? I don't  
17 remember those.  
18 MR. PARKS: It is the provision that  
19 changed in the law a year or -- I guess, about two years ago  
20 that allowed for the hardship for the owner -- that is  
21 written by an owner or a general for a sub. And then upon  
22 their receipt, it goes to a board member, usually me, I  
23 think.  
24 MS. LAZENBY: Yes. Frank did some.  
25 MR. PARKS: Frank did some in the past.  
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00004

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1 MR. SMITH: (Inaudible) -- And it is  
2 approved --  
3 MR. PARKS: This is approved and --  
4 MR. SMITH: (Interposing) -- and  
5 ratified --  
6 MR. PARKS: Right.  
7 MR. NEAL: We probably ought to say  
8 there approved by the Executive Director and at least one  
9 board member.  
10 MR. PARKS: That is probably true. The  
11 law says -- (Inaudible).  
12 MS. LAZENBY: Yeah, the law says the  
13 director, but you all voted on policy and I think we will  
14 need a -- (Inaudible) -- rule.  
15 MR. SMITH: Director and one board  
16 member?  
17 MR. PARKS: May I have a motion?  
18 MR. SMITH: Move for approval.  
19 MR. PARKS: Is there a second?  
20 MR. NEAL: Second.  
21 MR. PARKS: All in favor, say aye.  
22 (Vote is taken)  
23 MR. PARKS: Thank you.  
24 MR. HUNT: In the future on that memo,  
25 it would be helpful to have what the prior classification or  
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00005

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1 limit was.  
2 MS. LAZENBY: Sure.  
3 MR. HUNT: Similar to what we see on the  
4 regular increases and -- (Inaudible)  
5 MR. PARKS: Or just relist them in --  
6 MS. LAZENBY: I think they --  
7 MR. HUNT: (Interposing) -- They may be  
8 relisted.  
9 MS. LAZENBY: They are listed in the --  
10 under the revisions in the new application.  
11 MR. PARKS: No, they're not. No,  
12 they're not. Or at least the first one isn't. 49691 isn't.  
13 No, they are not listed on here. So, that is up to Karen  
14 and can start putting on the list. That would be my  
15 preference. Is that okay with you, Cliff?  
16 MR. HUNT: Yeah, that would be fine.  
17 MR. PARKS: Okay.  
18 MS. LAZENBY: I will see that that is  
19 changed.  
20 MR. PARKS: Next item is the review and  
21 approval of the July 2008 transcript, which is behind tab 2  
22 in our books.  
23 MR. WHITTINGTON: So move.  
24 MR. SMITH: Second.  
25 MR. PARKS: Discussion?

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00006

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1 (None Indicated)

2 MR. PARKS: All in favor, say aye.

3 (Vote is taken)

4 MR. PARKS: Passed. The next item is  
5 the review and approval of the interviewed and waived  
6 applicants behind tab 3, two pages of scheduled interviews,  
7 and then what problems with the waivers.

8 MR. HUNT: Move for approval.

9 MR. TICKLE: Second.

10 MR. PARKS: All right. Any other  
11 discussion? Does anybody have new files?

12 MR. HUNT: Yes.

13 MR. PARKS: Go ahead, Cliff.

14 MR. HUNT: This is more of a general  
15 question that came up from an interviews. And we went  
16 through a period, a short-time period, probably four to six  
17 weeks, when a -- it had to do with our web site.

18 When an application was received --  
19 Carolyn is going to pass it out the -- they are logged into  
20 our database as soon as the application is received. And at  
21 one point -- Let's go further -- because everybody has  
22 probably visited the web site before, but just to refresh  
23 your memory, that first page is what comes up when you do a  
24 search. You get this basic outline on the companies.

25 And then there is, down at the bottom

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00007

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1 left, there is a button you can click to get details. The  
2 second page would be the details that come up. And at one  
3 time when you went to this detail page, the -- I guess it is  
4 that frame description where it says unapproved application,  
5 it said "licensed" for about a four to six week period  
6 before it was changed.

7 And I interviewed a company that had  
8 applied for a license back in July, went to check on the  
9 status of the license, clicked on this and saw that it said  
10 they were licensed, and upon seeing that, entered into  
11 negotiations for a contract.

12 And then they show up today. Someone  
13 had turned them in for unlicensed activity.

14 And I interviewed them today and they  
15 have not taken any action yet on the license. They are fine  
16 as far as monetary limit and classifications and so forth,  
17 but technically and they fully admitted that they have been  
18 acting as a contractor in that time period from when they  
19 saw on the web site that they were licensed until today.

20 MR. PARKS: Are they not at some point  
21 sent a letter that basically says your application is  
22 processed or you are not allowed to do -- you are not a  
23 contractor until you --

24 MR. HUNT: (Interposing) -- Yes.

25 MR. PARKS: -- receive it from this

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00008

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1 board?

2 MR. HUNT: It doesn't say that. It says  
3 some things like that, but in this particular case, there  
4 are multiple offices involved, and the letter went to an  
5 office in another state and the recipient was out of town  
6 for quite a few weeks. In the meantime, the office, the  
7 local office, I guess, saw the information about being  
8 licensed and started process with the owner -- This was at  
9 the owner's request that they were involved in the project.  
10 It is just a hindsight.

11 MR. PUGH: I think there was some  
12 preliminary -- There was no contract or anything, just some  
13 preliminary discussions about calls and that type of thing.

14 MR. HUNT: Yeah. There has not been a  
15 bid or any part of a fee schedule, project amounts, or  
16 anything like that. It has mainly been budgetary  
17 discussions and so forth.

18 MR. PARKS: On the second page, it said  
19 licensed or whatever it said. What did it say on the first  
20 page in that third box that says license status? Do you  
21 know?

22 MR. PUGH: Application applied --  
23 (inaudible) -- processing.

24 MS. LAZENBY: On page 1?

25 MR. PARKS: Yeah.

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00009

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1 MS. LAZENBY: It said what it says on  
2 there: "Application in process."

3 MR. PARKS: Well, that --

4 MS. LAZENBY: (Interposing) -- Nothing  
5 else --

6 MR. PARKS: This is -- I equate this to  
7 the problem we had for so long with the ID card that said  
8 this certifies -- I mean, it applies -- (Inaudible) -- but  
9 this certifies you have been authorized to do anything you  
10 want to in the state of Tennessee.

11 MS. LAZENBY: Right.

12 MR. PARKS: Which wasn't true and that  
13 was very misleading and caused some people to have been --  
14 (Inaudible) sprinkler contractors more than anything else, I  
15 think -- (Inaudible) -- maybe one of them to cause a  
16 violation either with us or with other boards. I don't  
17 know. I don't have a problem with waiving that infraction  
18 or forgiving that infraction. Do you all agree with that?

19 MR. HUNT: Well, now, let me reiterate  
20 that the complaint is filed. So, it is --

21 MR. PARKS: Did -- And, Wayne, I think  
22 it was you that said they were only in negotiations, so  
23 if --

24 MR. PUGH: (Interposing) -- It was only  
25 from my understanding --

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00010

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1 MR. PARKS: -- it wasn't in  
2 mid-solicitation, so --

3 MR. HUNT: It may have been a -- I think  
4 there were four invited contractors or parties to make a  
5 proposal on the project. And, Larry, you will appreciate  
6 this, it is somewhat a relationship between the architect  
7 and the contractor having done some other jobs within other  
8 states in the past.

9 MR. SMITH: This contractor, or the one  
10 that is complaining?

11 MR. HUNT: This contractor.

12 MR. PARKS: But there was no bid, so  
13 there wasn't any class or limit requirement on any umbrella;  
14 right?

15 MR. HUNT: That's right. There were no  
16 bid opening -- It is still in process, so there is --

17 MR. PARKS: Right.

18 MR. WHITTINGTON: There is an  
19 appropriate value of the project, but that is probably plus  
20 or minus 20 percent.

21 MR. PARKS: Do you have a recommendation  
22 on how we handle it, how we -- (Inaudible) -- you and  
23 Wayne -- (Inaudible)

24 MR. PUGH: Just make a demand.

25 MR. PARKS: Huh? I'm sorry.

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00011

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1 MR. HUNT: I would recommend that we go  
2 ahead and issue the license. I feel like the contractor has  
3 acted in good faith and has been cooperative throughout the  
4 discussions, but I think we will probably hear from the  
5 complaining contractor if we do grant the license. I don't  
6 know for sure that all three of the other contractors are  
7 licensed. That is something -- I don't even think we have  
8 any other contractor. It was an anonymous complaint. But I  
9 would recommend awarding the license.  
10 MR. NEAL: Is that a motion?  
11 MR. HUNT: I will make that in the form  
12 of a motion.  
13 MR. NEAL: Second.  
14 MR. PARKS: Okay. Do we need to get the  
15 name on the record, or do you prefer it remain anonymous?  
16 MR. PUGH: Remain anonymous.  
17 MR. PARKS: Okay.  
18 MR. PUGH: I have discovered that much.  
19 MR. PARKS: Okay. Any other  
20 discussions?  
21 (None Indicated)  
22 MR. PARKS: All in favor, say aye.  
23 (Vote is taken.)  
24 MR. PARKS: All right. I had one more.  
25 It was a waived application. (Inaudible) Chris Rogers  
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00012

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1 Electric. I think it came in after the deadline and I don't  
2 see it on the list, but it is the one I was asking about,  
3 somebody here in Knoxville. I just wanted to make sure it  
4 gets on the list. I don't think there is any amendment. We  
5 made a fax copy. Anybody else have a waiver/interview  
6 question?

7 (None Indicated)

8 MR. PARKS: All in favor, say aye.

9 (Vote is taken)

10 MR. PARKS: Thank you. Next are the  
11 revisions, and they are behind tab 4. As classes  
12 increase -- (Inaudible) -- and limits change in load, QA's,  
13 et cetera. Anybody have any -- Or do I have a motion for  
14 acceptance of those?

15 MR. NEAL: So move.

16 MR. PARKS: Is there a second?

17 MS. DEBUSK: Second.

18 MR. PARKS: Is there any question or  
19 discussion?

20 (None Indicated)

21 MR. PARKS: All in favor, say aye.

22 (Vote is taken)

23 MR. PARKS: Passed. LLE application  
24 behind tab 5, and I am assuming that Cindi has approved.

25 MS. DEBUSK: Approved all but two.

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9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 MR. PARKS: And those are?  
2 MS. DEBUSK: Brian Chance. He has a  
3 felony conviction. And I don't know if he is still on  
4 probation. This information is not detailed enough for me  
5 to determine. He is still on probation and exactly what --  
6 MR. PARKS: (Inaudible). For the  
7 record, clear that up.  
8 MS. LAZENBY: Thank you.  
9 MS. DEBUSK: And the second one is  
10 Norman LaRue. And he is convicted of a felony. And I need  
11 detailed explanation why or what happened exactly.  
12 MR. NEAL: They don't tell you what  
13 their felony was?  
14 MS. DEBUSK: There are court documents  
15 here, but it does not -- It just says Class B, burglary. He  
16 is charged with burglary. (Inaudible) -- whether it was on  
17 someone's home. But we need more information about what  
18 happened and why it happened and so forth.  
19 MR. PARKS: So, are you asking for  
20 approval on the two, or approval on all, including those  
21 two, you are satisfied with the information you have?  
22 MS. DEBUSK: Approval of all, including  
23 the two. I'm satisfied with the information I received.  
24 MR. PARKS: Is there a second on that  
25 motion?

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00014

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1 MR. SMITH: Second.  
2 MR. PARKS: Discussion or questions?  
3 (None Indicated)  
4 MR. PARKS: All in favor, say aye.  
5 (Vote is taken)  
6 MR. PARKS: Passed. Next is the legal  
7 report, residential subcommittee, residential report was  
8 passed out. Keith, do you have 1 through 8?  
9 MR. WHITTINGTON: Yes. The first, 1 is  
10 okay.  
11 Number 2, there is a recommendation for  
12 a consent order providing for the relinquishment of the  
13 license authorization for formal hearing. I agree that we  
14 need to do that.  
15 3, I agree. 4.  
16 Number 5, obviously, a pre-licensing  
17 course did not obtain the board's approval before  
18 administering their course. It advertised and promoted the  
19 fees charged for pre-licensing courses would be waived if a  
20 student failed to pass any examination required by the  
21 board. I think that is against our rules.  
22 The Respondent petitioned the board for  
23 relief of the citation as well as the surety bond required,  
24 both of which the board denied. Respondent has not yet paid  
25 the citation or completed the application process. The  
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00015

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1 recommendation to discuss, I think that --

2 MR. PUGH: (Interposing) -- The reason  
3 we did is we pulled the information from the web site and  
4 evidently this same provider was still advertising on the  
5 web site a home -- I think he had a course for a home -- CD  
6 home study. Based on Tennessee laws, they are not approved.

7 MR. PARKS: If they are not approved,  
8 that --

9 MR. SMITH: (Interposing) -- May I make  
10 a recommendation that we increase the civil penalty to  
11 \$1,000.00? I will write it and ask --

12 MR. PARKS: (Interposing) -- Can you  
13 send down a cease and desist order?

14 MR. PUGH: I will put down a cease and  
15 desist --

16 MR. SMITH: Yeah.

17 MR. PARKS: And just that really isn't a  
18 residential issue. That is -- You either -- I don't what  
19 you call it.

20 MR. HUNT: Can we give them a date to  
21 shut down and make it \$1,000.00 a day --

22 MR. PUGH: It would be immediately shut  
23 down.

24 MR. HUNT: I thought that is as far as  
25 they could fine, to start having days at \$1,000.00 a day.

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00016

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1 MR. PUGH: I can take care of that.  
2 MR. PARKS: \$1,000.00 fine per day after  
3 notice.  
4 MR. NEAL: After giving them ten (10)  
5 days or something like that?  
6 MR. PARKS: I don't think -- All they  
7 have to do is turn off their web site.  
8 MR. PUGH: Sometimes it is not quite  
9 that simple.  
10 MS. DEBUSK: Can we advertise the CD's  
11 as the -- (Inaudible) -- average theme on the web site?  
12 (Inaudible) --  
13 MR. NEAL: Ten days? Five days?  
14 MR. PUGH: Ten days.  
15 MR. NEAL: All right. Can you go back  
16 up there to number 2? Excuse me. It says that said owner  
17 provides for an interest in their license authorization to  
18 perform. I assume that means it adds on to the sign --  
19 (Inaudible)  
20 MR. PUGH: Yes, sir.  
21 MR. NEAL: -- that this was alleged, but  
22 it didn't -- (Inaudible) -- their performance?  
23 MR. PUGH: Yes, sir.  
24 MR. WHITTINGTON: Okay. Number 6, agree  
25 with the recommendation to dismiss.

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00017

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1                   Number 7, I assume we need to discuss  
2 the amount of reduced civil penalty based on the new  
3 information.

4                   MR. PUGH: If he will agree to that, or  
5 do you want to hold up?

6                   MR. WHITTINGTON: There was still a lot  
7 of incompetence, according to the board investigator. I say  
8 we should leave the penalty at \$1500.00.

9                   MR. NEAL: You got another one?

10                  MR. SMITH: Well, there is nothing under  
11 8, but I -- This is --

12                  MR. PUGH: Actually, this one was  
13 presented a while back and was closed with a letter of  
14 warning. Respondent is asking that you rescind the level of  
15 the warning. The circumstances were he failed to complete,  
16 he filed bankruptcy. I assume we will rescind that.

17                  MR. WHITTINGTON: Number 9, I'm okay.

18                  Number 10 is a 12(e), that didn't  
19 understand the proper licensing procedure. My only question  
20 there, it says they are in litigation. Should we hold that  
21 license? On our normal -- On our regularly licensed people,  
22 if we find out they are in violation, then we hold it for  
23 six (6) months.

24                  MR. PUGH: Okay. You talking about  
25 number 10?

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00018

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1 MR. WHITTINGTON: Yes. I'm okay with  
2 not holding it. I just didn't know if we needed to --

3 MR. PUGH: The grantor?

4 MR. WHITTINGTON: Yes. Oh, it is gone  
5 now. Okay.

6 MR. PUGH: I was more familiar with his  
7 policy on --

8 MR. WHITTINGTON: Okay. He was granted  
9 on March 20 -- Okay. So, it is gone. We can't do that.  
10 Well, we can fine him \$1,000.00. Okay. Do not agree with  
11 number 10. (Inaudible) -- application. Runs an  
12 application.

13 MR. SMITH: Well, we didn't pick up on  
14 it because we didn't know that he was a contractor without a  
15 license. He didn't tell us. And then so I guess it went  
16 through the system and was issued about a week or ten days  
17 later, and then this complaint came about.

18 MR. PUGH: Me personally, this is just  
19 my personal opinion, I take a dim view of anybody  
20 misrepresenting themselves on an application. I mean, that  
21 is basically lying to the board.

22 MR. WHITTINGTON: We have been told over  
23 the years that the only way to reverse that is through a  
24 formal hearing unless they have a -- (Inaudible) -- they are  
25 pursuing.

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00019

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 MR. PUGH: I don't mind doing a formal  
2 hearing.  
3 MR. SMITH: Well, we are fining him  
4 \$1,000.00.  
5 MR. PARKS: (Inaudible) -- formal  
6 hearing --  
7 MR. PUGH: Yeah.  
8 MR. PARKS: (Inaudible) -- will get you  
9 a revocation for falsifying a license or application.  
10 MR. WHITTINGTON: And I'm okay with your  
11 recommendation. LLE, he might not have a 1,000.00, but we  
12 are going to find out.  
13 MR. PUGH: Yeah. If he did, he ought to  
14 be --  
15 MS. LAZENBY: (Interposing) -- Yeah, he  
16 should be restricted, yeah.  
17 MR. PUGH: Restricted, yeah.  
18 MR. HUNT: Is he going to appear before  
19 us?  
20 MR. SMITH: No, but he is going to mail  
21 in \$1000.00 or appear before us.  
22 MR. TICKLE: Okay.  
23 MR. SMITH: Okay. Number 11, it says  
24 discuss. I'm okay to dismiss, but do you still want to  
25 discuss?

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1 MR. PUGH: I will take your  
2 recommendation.  
3 MR. SMITH: Okay.  
4 MR. NEAL: They can't combine their  
5 license, though, to get a higher monetary limit.  
6 MR. PUGH: Why not?  
7 MR. SMITH: When they have a joint  
8 venture, they're not --  
9 MR. PUGH: Actually, in this situation,  
10 they actually formed a new LLC. And everything is being  
11 done under that new LLC. It is not licensed.  
12 MR. WHITTINGTON: Hell, no.  
13 MR. NEAL: They don't have a license on  
14 that one.  
15 MR. PARKS: Then we don't want to  
16 dismiss it.  
17 MR. SMITH: Okay. Well, I thought they  
18 just did a joint venture.  
19 MR. PUGH: Evidently, they actually  
20 formed a new legal entity, a new LLC, and everything is  
21 being done with that new LLC.  
22 MR. SMITH: Otherwise, how would they  
23 combine their licenses to bid?  
24 MR. PUGH: They could have had a joint  
25 venture. You do have the rule that you can do a joint  
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1 venture. You go out and set up a new LLC, you set up a new,  
2 separate legal entity, and everything is run through that  
3 legal entity, and that legal entity is not licensed.

4 MR. NEAL: And even that joint venture  
5 both of the parties have to have a license at least to  
6 satisfy the amount of the contract that they are entering  
7 into. They can't have one with \$164,000.00 and another one  
8 with \$164,000.00 and do a \$300,000.00 contract.

9 MR. PARKS: Yes, they can if they've got  
10 a joint venture. They can do it that way.

11 MR. PUGH: And the other contractor in  
12 this situation is limited to \$600,000.00. If they have done  
13 a proper joint venture, I think they could have done that.

14 MR. PARKS: Yeah.

15 MR. PUGH: They set up that LLC for a  
16 joint venture.

17 MR. PARKS: Are they doing jobs in  
18 excess of \$764,000.00?

19 MR. SMITH: I'm not sure they did that  
20 to try to skirt the law or get around it.

21 MR. PUGH: I don't.

22 MR. SMITH: You do?

23 MR. PUGH: I do not.

24 MR. SMITH: Oh. They probably just  
25 thought that was much more proper than joint venturing.

00022

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 MR. HUNT: They do.  
2 MR. SMITH: They do?  
3 MR. NEAL: You can't add 160 and 160 and  
4 get 320.  
5 MR. PARKS: Yes, you can.  
6 MR. NEAL: Can't do it.  
7 MR. PARKS: Yes, you can.  
8 MR. PUGH: Can't do it.  
9 MR. PARKS: Yes, you can.  
10 MR. NEAL: You can't do it.  
11 MS. DeBUSK: You have to be licensed.  
12 MR. PARKS: Yeah, but you can allow two  
13 people to combine them.  
14 MR. TICKLE: If you turn to page 62 on  
15 Joint Ventures, it says: "A joint venture provides a means  
16 by which licensed contractors may combine their monetary  
17 limitations in order to undertake a larger project than each  
18 would otherwise be able to perform." I think that is what  
19 they were trying to do.  
20 MR. PUGH: One of the contractors had a  
21 \$600,000.00 limit, the other one had this \$164,000.00. It  
22 looks like the houses are selling between --  
23 MS. CANTER: \$300,000.00 and  
24 \$400,000.00.  
25 MR. PUGH: \$300,000.00 and \$400,000.00?  
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00023

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1 MR. PARKS: See, now, they may well have  
2 pooled the last ones under one of them -- (Inaudible) -- or  
3 something. So, they may not have set out just to beat  
4 anybody, beat the law.  
5 MR. NEAL: I don't think they did set  
6 out to beat the law.  
7 MR. PARKS: It may have been through  
8 ignorance.  
9 MR. TICKLE: They have done the LLC  
10 rather than do another joint venture.  
11 MR. PUGH: They did the letter of  
12 warning.  
13 MR. SMITH: Yes, it explained what they  
14 did, sort of.  
15 MR. TICKLE: I just don't think they  
16 knew what they were doing. Somebody just --  
17 MR. PUGH: (Interposing) -- Well, that's  
18 what I say. They may have talked to an attorney and he  
19 said, yeah, you can do an LLC.  
20 MR. PARKS: Yeah, form an LLC.  
21 MR. PUGH: An LLC can very simply  
22 contract with one of those two licensed contractors.  
23 MR. SMITH: I'm okay on 12, close with a  
24 letter of warning.  
25 13, dismiss.

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00024

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 14, close.  
2 15, close.  
3 And 16, close with letters of warning  
4 regarding contracting and the namee licensee.  
5 MR. PARKS: Cliff?  
6 MR. HUNT: Go ahead with whatever you  
7 want to do.  
8 MR. PARKS: All right.  
9 MR. HUNT: 17, we agree with the  
10 recommendation.  
11 18, we agreed with.  
12 MR. TICKLE: (Affirmative Nod of Head)  
13 MR. HUNT: 19 is okay.  
14 MR. WHITTINGTON: 19 is probably okay.  
15 And that is the one with the age old discussion of you  
16 include the land and so forth relative to the license. So,  
17 19 is okay with reservation.  
18 20, recommending a \$500.00 consent order  
19 for unlicensed activity.  
20 21, \$500.00 consent order for unlicensed  
21 activity.  
22 Okay with 22 and 23.  
23 And, 24, I'm not sure if we have reached  
24 an agreement on it. I would recommend closing it. I'm not  
25 sure why we would send a letter of warning on something that  
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1 doesn't --

2 MR. PUGH: (Interposing) -- A stop work  
3 order, would that rescind that conduct?

4 MR. HUNT: Well, do we --

5 MR. TICKLE: Municipalities would --  
6 could put a stop work order on the file. They can do that.

7 MR. SMITH: It said the engineering  
8 department did that.

9 MR. PUGH: When I look at it, I looked  
10 at what the law said. Misconduct is grounds for  
11 disciplinary action. And, again, we have already stopped  
12 with work orders on this project. He has been complying  
13 with them, actually went to court and was complying with  
14 them. And he has been punished once. And that is why I  
15 kind of did the letter of warning.

16 MR. TICKLE: What is his prior  
17 complaints, six close -- He had six different times that he  
18 has had problems?

19 MS. CANTER: (Affirmative Shake of Head)

20 MR. HUNT: It could be unrelated to  
21 different committees. I just think it is a little bit of  
22 double jeopardy. He has been to court and the court has  
23 dealt with it, the way he handled it with stop work orders.  
24 But I understand what you are saying about the misconduct.  
25 I just know there is usually a lot more circumstances than

1 the brief information we have here.

2 MR. TICKLE: I agree.

3 MR. PUGH: Just close it? Okay.

4 MR. PARKS: Thank you. Commercial

5 contracting. I believe Frank and I thought the question was

6 I object to the closing that one commercial without --

7 (Inaudible) And we have -- (Inaudible) -- if that didn't

8 apply. What it may not say here, but what may have been the

9 intent was they cleared it for the lumber?

10 MR. PUGH: I'm not sure if they cleared

11 it for the lumber.

12 MR. PARKS: Okay. But in the past, we

13 had one where someone was tearing down a building, where

14 someone was demolishing a building for the value of the

15 materials. They had to have a license and we based the

16 limit based on the payment bond with that particular owner

17 that was applying. So, just because some mayor conferred

18 with some attorney doesn't hold much water, in my court.

19 MR. PUGH: My understanding, this is

20 only dealing with the cutting of the timber and throwing the

21 timber off the track.

22 MR. PARKS: Well, the cutting and

23 clearing timber, we may not be required, but if it is

24 clearing brush, then that is clearing and grubbing. And if

25 so, a license is required.

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1 MR. PUGH: Definition calls for  
2 excavation as part of the contract. That is part of the  
3 definition in the contract. Clearing, I'm not sure falls  
4 within the definition.

5 MR. PARKS: It includes A, C. It  
6 includes grading, drainage, pipe obstruction, clearing and  
7 grubbing.

8 MR. NEAL: Same thing on -- (Inaudible)

9 MR. PUGH: We are down to the rule?

10 MR. PARKS: Yeah, page 68.

11 MR. HUNT: In other words, if he  
12 miscontracted -- if all he did was cut the timber and haul  
13 it off to be sold, that is one thing, but if he was to cut  
14 the timber, take the stumps out and clear the roots, then  
15 that -- it is a much bigger project and would probably  
16 require a license.

17 MR. PUGH: I'm not sure I can answer  
18 that. It says clearing and timber cutting and gives a  
19 price, credit for sale of timber. It doesn't say credit for  
20 sale of logs.

21 MR. NEAL: The clearing -- (Inaudible)

22 MR. PARKS: It also says the bid wasn't  
23 accepted. Does that mean it got awarded to somebody with a  
24 license or --

25 MR. PUGH: (Inaudible) -- might have

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1 been ordered.  
2 MR. NEAL: What it says, he was doing an  
3 industrial development site.  
4 MR. PARKS: And I'm guessing it was a  
5 county industrial or a rural county buddy-buddy deal. But I  
6 would suggest a letter of warning to the Respondent. First  
7 I would suggest -- (Inaudible) But if the bid wasn't  
8 accepted, then I guess I'm happy with a letter of warning  
9 and it saying clearing and grubbing requires a license,  
10 brush removal requires a license, cutting of timber does  
11 not. Do you agree with that?  
12 MR. PUGH: There was not --  
13 MS. LAZENBY: (Interposing) -- Cutting  
14 timber?  
15 MR. PARKS: Uh-huh.  
16 MS. LAZENBY: Does it lead to the same  
17 thing?  
18 MR. PARKS: Not just if it is timber  
19 being harvested to sell the lumber.  
20 MS. LAZENBY: Yeah.  
21 MR. PARKS: That doesn't require a  
22 license. But if I've got to go ahead and clear and grub the  
23 site to rebank it or build a building on it or whatever,  
24 that is construction.  
25 MS. LAZENBY: (Affirmative Nod of Head)  
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1 It doesn't make sense.  
2 MR. PARKS: Did you hear that, Wayne?  
3 MR. PUGH: The bid was -- (Inaudible)  
4 MR. PARKS: Right. I understand.  
5 (Inaudible) -- explaining to the licensee so they don't do  
6 it again and say, well, you know, the Mayor told us it  
7 wasn't required twelve years ago, two days ago.  
8 All right. Subject to the comments and  
9 the report, may I have a motion for acceptance of the  
10 report?  
11 MR. TICKLE: So move.  
12 MR. SMITH: Second.  
13 MR. PARKS: Any other discussion?  
14 (None Indicated)  
15 MR. PARKS: All in favor, say aye.  
16 (Vote is taken.)  
17 MR. PARKS: Do we have a home  
18 improvement subcommittee report?  
19 MS. CANTER: It is in your report.  
20 MR. PARKS: Do we have it or do we need  
21 it?  
22 MS. CANTER: I can provide you a copy.  
23 MR. PARKS: On number 3 under the home  
24 improvement list, if it is in a county that requires  
25 licensure, why would it go to the DA for criminal charges  
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00030

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 instead of -- or is that what the law under home  
2 improvement -- I don't know. Or why would you not --

3 MR. HUNT: Same old thing. We don't  
4 have jurisdiction over unlicensed contractors.

5 MR. PARKS: But if it is in a county  
6 that requires a home improvement license, then we -- they  
7 have broken that law. So, they should at least be sent some  
8 kind of a notice.

9 MR. PUGH: They would have to be fined  
10 if we do send them a notice.

11 MR. PARKS: Okay. And then number 4 is  
12 a contractor's law versus home improvement law violation  
13 because it is \$44,000.00. It is over \$25,000.00.

14 MR. SMITH: Doesn't have either.

15 MR. PARKS: Doesn't have either, but, I  
16 mean, it is a --

17 MR. PUGH: You know he does have an HIC  
18 license.

19 MR. PARKS: Okay. He has an HIC. So,  
20 he has violated the terms and conditions of that license and  
21 he has contracted without a license, as far as our law goes;  
22 right?

23 MR. SMITH: Yes.

24 MR. PARKS: I'm okay with that penalty  
25 of \$1,000.00 as long as you all --

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00031

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1 MR. SMITH: Cease and desist.  
2 MR. PARKS: -- cease and desist.  
3 Does anybody else have any comments on  
4 the home improvement report?  
5 (None Indicated)  
6 MR. PARKS: May I have a motion for  
7 acceptance of it?  
8 MR. TICKLE: Motion.  
9 MR. PARKS: Is there a second?  
10 MR. WHITTINGTON: Second.  
11 MR. PARKS: Thank you. All in favor,  
12 say aye.  
13 (Vote is taken)  
14 MR. PARKS: Thank you. Wayne, earlier,  
15 you told me that you wanted to talk a little bit about -- we  
16 are to the discussion topics, so while you are still front  
17 and center, about consent orders or something, litigation  
18 was pending.  
19 MR. PUGH: Well, actually, there was one  
20 on there.  
21 MR. SMITH: It is similar to mine.  
22 MR. PUGH: It was litigation --  
23 (Inaudible) -- monitor and consumer. It is something I have  
24 always done, is just send an order out to the Respondent in  
25 his file saying we are deferring action on this, so we want  
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9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 you to agree that you are going to keep us up on what is  
2 going on with the litigation. It just puts a little extra  
3 emphasis to somebody to keep us -- (Inaudible) -- I'm  
4 sure -- for failure to abide by one of the commission's  
5 rules and the grounds for this one.

6 So, if they don't keep you up on it and  
7 they sign an order, it is a violation of that order. I  
8 just, to keep this -- I like to do it to keep things clean.

9 MR. PARKS: Okay. And I had held off  
10 asking a question that I have. On renewal, they gave me for  
11 a pending on -- there is a judgment in this particular  
12 contractor's renewal. They have answered yes to the  
13 question of: "Are there liens and judgments?" They said:  
14 "Yes." They put a letter here that says there was a  
15 judgment awarded in small claims court.

16 So, then they went back to Chancery  
17 Court where there was an injunction issued to stop the  
18 homeowner from getting the money from the contractor. So,  
19 the contractor has a judgment in his hand, but it doesn't  
20 concern the (Inaudible) clause in the contract and so now it  
21 is going to arbitration.

22 I don't think we have a way to hold a  
23 license because of an unpaid judgment since he got sent back  
24 to arbitration; right?

25 MR. PUGH: (No Audible Response)

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00033

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 MR. PARKS: Okay. Discussion topics,  
2 Fire Sprinkler Piping (CMC-A).

3 MS. LAZENBY: That was something  
4 (Inaudible) was going to discuss. I e-mailed him, and he  
5 said he wanted to make sure that we require plumbers to take  
6 additional tests to install fire sprinkler piping.

7 MR. PARKS: I'm wondering if he is  
8 thinking residential. That is what we were talking about  
9 earlier.

10 MR. SMITH: He doesn't do residential,  
11 but you tell me.

12 MR. PARKS: Well, I mean, I'm not a  
13 plumber, but I would think that it would be the board's  
14 position that CMC-A does not -- (Inaudible) -- as a CMC-D;  
15 right?

16 MS. LAZENBY: Right.

17 MR. PARKS: And this test with your  
18 license class. Yet a full CMC can do sprinklers, which I  
19 don't think many of them do it. And, now, maybe that is  
20 what he means, that the CMC test --

21 MS. LAZENBY: (Interposing) -- Maybe  
22 that is what he is talking about.

23 MR. PARKS: -- doesn't cover the fire  
24 sprinklers.

25 MS. LAZENBY: I think, before, though,

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9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 Don Orr had always said if you had a plumber license and you  
2 had the Fire Marshal's required sprinkler license, you could  
3 do it. But without -- (Inaudible), I don't -- (Inaudible).  
4 See, the Fire Marshal's office, they charge for --  
5 (Inaudible)

6 MR. PARKS: Part of this --

7 MR. NEAL: And we will -- If we ever get  
8 into a ruling that for missing the classes, which we  
9 probably were threatening to do, we may need a separate  
10 class for sprinklers instead of it being one of their subs  
11 leading through classes.

12 MR. PARKS: Next, where the parent  
13 companies assume names, and I think there is one e-mail in  
14 behind tab 7 where Carolyn is requesting Beth and I about  
15 assumed names of the parent companies.

16 And what had happened was, apparently,  
17 in this is one licensee has applied -- I think they have  
18 got -- one entity has got two licenses and they are trying  
19 to use the same financial statement for both licenses. And  
20 there is a deficit on one.

21 So, that would just, you know, double it  
22 or do something to it on the second one and might, you  
23 know -- And so I wanted it brought to the board rather than  
24 me ruling on it.

25 MR. PUGH: It is the same corporation.

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1 It is the same legal entity.

2 MR. PARKS: They have two different  
3 licenses and we require a financial statement in the name of  
4 the licensee. We do occasionally accept the parent's  
5 financial audit of reviewed statements.

6 MR. PUGH: In this situation, it is not  
7 a parent company. This is a corporation doing business as  
8 and even an assumed name?

9 MS. LAZENBY: They have several  
10 different companies like franchises that they register with  
11 the Secretary of State. They have one control number and  
12 they have several assumed names.

13 MR. PUGH: Okay. In that situation,  
14 that is one corporation acting under assumed names and they  
15 have only one legal name. It is not separate legal  
16 entities. They are not subsidiary corporations. They are  
17 just one legal entity acting with a different name, which is  
18 permissible under the law to act under a different name.

19 A corporation, as long as you file with  
20 the Secretary the State, you are good. You are allowed six.  
21 So, I mean, we are dealing with one entity. Is there  
22 anything in the statute that says --

23 MS. LAZENBY: (Negative shake of head)

24 MR. PUGH: I know that this is a new  
25 ruling we are talking about.

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1 MR. PARKS: We have always had -- We  
2 have always interpreted the law, if you have a contract in  
3 the name your license is in -- and in fact I will say we are  
4 thankful for openly using assumed names before signing it  
5 Larry Parks, et cetera or whatever. They have never been  
6 challenged on it, but that doesn't mean -- (Inaudible) --  
7 keep doing it, fortunately.

8 MR. NEAL: It is not a matter of whether  
9 we can say we can or we can't. That name that they bid in  
10 doesn't have a license. And I handled one company in  
11 particular that had about nine assumed names. And they  
12 filed a bid in one of those nine assumed names saying the  
13 Secretary the State says it is fine. It is fine with the  
14 Secretary of State, but it is not fine with the licensing  
15 board because when you turn in a bid and that name has no  
16 license, then you have violated the licensing board.

17 MR. PUGH: And what is the question  
18 here?

19 MR. NEAL: Whether you can bid in an  
20 assumed name or not.

21 MR. PUGH: Is he looking at a  
22 licensing -- (Inaudible)

23 MR. NEAL: Yes.

24 MS. LAZENBY: But I don't think it has  
25 come up because they haven't, you know, got any money. So,

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00037

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1 it will be coming back to the board when they have money,  
2 when they put -- we just brought this up because just in  
3 case -- (Inaudible)

4 MR. PUGH: Mr. Chairman, let me suggest  
5 this, and let me suggest that we defer this to the next  
6 meeting.

7 MR. PARKS: Yes, sir.

8 MR. PUGH: And let me do some research  
9 on this.

10 MR. PARKS: Okay.

11 MR. NEAL: In my case, their lawyer even  
12 said, you know, the board is clean, the Secretary of State  
13 has given you a legal name and you have got a charter in  
14 that name and you can bid in that name. I don't know how  
15 you can bid in that name if you don't have a license.

16 MR. PUGH: Well, that is -- (Inaudible)  
17 The legal entity in this situation would be the corporation.  
18 The license holder should be the legal entity, not the  
19 assumed name.

20 MR. PARKS: Right. We had them apply  
21 for a bid.

22 MR. PUGH: Now, we have had problems in  
23 other boards where they have issued licenses in, basically,  
24 just assumed names or something. And then when you start to  
25 go to take disciplinary action and you have to serve the

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9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 legal entity, you realize, oh, I've got a problem, I'm not  
2 sure I've got the legal entity license. So, let me take a  
3 look.

4 MR. PARKS: Okay. So, I'm behind -- The  
5 next item is revision request on pre-licensing course  
6 provider. That is behind tab 8 in our book. And I'm not  
7 sure I can figure out what the first one is.

8 MS. DeBUSK: When we had somebody look  
9 at all the materials, we tried and we passed one and opened  
10 it up, but I think it is basically they just want to change  
11 their practice exam. They have given us a disk, but we have  
12 got to use a password to open it up, but we didn't want to  
13 open them up and go ahead and move forward.

14 And then on the National -- (Inaudible)  
15 their course has already been approved by you all. They are  
16 going to offer a -- (Inaudible) -- course. So, there is  
17 really just no change. They are just offering an extra  
18 service. And we have told them anytime they do anything  
19 different, they have got to notify us.

20 MR. PARKS: So, we have all -- We know  
21 all we need to know on National?

22 MS. LAZENBY: Right. And then on  
23 American, I just need you all to look at it.

24 MR. PARKS: Which test?

25 MS. LAZENBY: Business and law.

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00039

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 MR. PARKS: Oh. Combination. Can we  
2 copy these?  
3 MS. DeBUSK: Okay. Yeah.  
4 MR. PARKS: So, do we need to vote on  
5 these for approval?  
6 MS. LAZENBY: Right.  
7 MR. PARKS: Would it be --  
8 MR. WHITTINGTON: (Interposing) -- Would  
9 it be proper --  
10 MS. LAZENBY: Do what?  
11 MR. WHITTINGTON: Would it be proper to  
12 vote on some of the materials that we have not seen and  
13 can't verify?  
14 MS. LAZENBY: I guess, upon approval by  
15 the chairman.  
16 MR. WHITTINGTON: Then I make a motion  
17 that we accept the changes first and foremost with American  
18 contractors after we get recommendable approval from our  
19 chairman. And then on National contractors, I make a motion  
20 we accept theirs as-is.  
21 MR. HUNT: Second.  
22 MR. PARKS: There is a second. All in  
23 favor, say aye.  
24 (Vote is taken)  
25 MR. PARKS: Thank you. The next item is  
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00040

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 something we were all sent an e-mail about. And I asked the  
2 question and I'm not sure we yet have a real answer as to  
3 whether they want us to nominate three of our board members  
4 or nominate three -- or this board is to nominate three  
5 members from our industry.

6 MS. DeBUSK: Our engineers board read  
7 the law like you all. They went ahead and nominated three  
8 of their board members.

9 MR. PARKS: That is the way I read it.  
10 That wasn't the way Reese read it; right?

11 MR. SMITH: That is not the way Nate has  
12 read it, either.

13 MS. LAZENBY: Oh, the -- (Inaudible)?

14 MR. SMITH: Three names from your  
15 organization without -- I think that means three people  
16 other than us -- they could be from our board, but it  
17 doesn't say our board. It doesn't say our board. It  
18 says --

19 MS. LAZENBY: (Interposing) -- It says  
20 they pay per diem.

21 MR. PUGH: We have a state law that  
22 basically says that you cannot accept compensation from two  
23 state agencies. So, if there is a per diem, we may have a  
24 problem. I just had a situation with the Tennessee Athletic  
25 Commission, they will not allow members of the Attorney

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00041

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 General's office to serve on that commission because there  
2 is a little compensation attached to it.

3 MR. PARKS: It terminates in two years,  
4 so it is not a long term board.

5 MR. PUGH: No. Page 3?

6 MS. DEBUSK: Yes. It says a member of  
7 the -- (Inaudible) -- receives no compensation --

8 MR. PUGH: Okay.

9 MS. DEBUSK: -- for their services.

10 MR. PUGH: But you also have a provision  
11 on page 5 that says non-ex officio members shall be entitled  
12 to receive compensation provided in this -- (Inaudible).

13 MR. NEAL: It further says the speaker  
14 something in the form of representing the Board for  
15 Licensing Contractors shall have three candidates submitted.

16 MR. PARKS: But is it three contractor  
17 board members submitted, or three names submitted by the  
18 board?

19 MR. SMITH: I think it is three names  
20 submitted by the board. I think the legislature thinks  
21 that, because it -- the letter doesn't say that we submit  
22 three names of your board members.

23 MR. PARKS: Okay. So, the AE Board did  
24 it?

25 MS. LAZENBY: Yeah, they did. They have

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9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 already --

2 MR. PUGH: (Interposing) -- I will have  
3 to talk to my attorney about that.

4 MR. PARKS: What did he say?

5 MR. PUGH: I said I will have to talk to  
6 my attorney about that.

7 (Laughter)

8 MR. PARKS: Well, Reece, you had one  
9 name. I had one that was an architect in Chattanooga, but  
10 it turned out the Architecture Board has already  
11 nominated -- (Inaudible) -- department. I don't need to do  
12 them both, I don't think.

13 I don't personally know nor can I think  
14 of Kate something. Does your name -- She is with the  
15 Strauss, S-t-r-a-u-s-s, Company in Chattanooga. She is the  
16 lead certifier. Kate Gilbert, I believe, is her name. I  
17 have never met her, but I know she has taught a lead class  
18 in Chattanooga. And then somebody from construction, I  
19 think, knows something about energy efficiency.

20 MR. SMITH: The one I recommended was  
21 Dean Hastings. He is a licensee. He is a developer and is  
22 in the energy efficiency business.

23 MR. PARKS: Do we have a third name?

24 MR. SMITH: Will one of those names be  
25 selected or --

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1 MS. LAZENBY: Yeah.  
2 MR. NEAL: How about Don Orr?  
3 MS. LAZENBY: Yes. He is very good.  
4 MR. NEAL: Put him back in.  
5 MS. LAZENBY: Do we have to check with  
6 these people before we --  
7 MR. NEAL: You have to find them.  
8 MR. PARKS: I mean, I think I ought to  
9 call Kate Gilbert and let her know and make sure I have  
10 permission. Now that I think about it -- (Inaudible) --  
11 talking about how pregnant she was. So, she may not be able  
12 to do it, whatever. But she may have another month or two.  
13 Now, do you want to have a motion to accept her, or somebody  
14 else?  
15 MR. NEAL: That shouldn't bother her.  
16 We have got a vice president in our midst.  
17 MR. PARKS: Has anybody got a problem  
18 with the three names that have come up or were you being  
19 facetious on account of me?  
20 MR. NEAL: No, I don't.  
21 MR. PARKS: That is the two?  
22 MR. NEAL: Yeah.  
23 MR. PARKS: Okay.  
24 MR. NEAL: He knows how to turn the  
25 light on and off.

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00044

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 MS. LAZENBY: And if anybody is  
2 efficient --

3 MR. PARKS: Any other names? Do we have  
4 a motion that these three, Denny Hastings, Steve Gilbert,  
5 and Don Orr?

6 MR. SMITH: So move.

7 MR. NEAL: They are on the --  
8 (Inaudible)

9 MR. PARKS: Is there a second?

10 MR. NEAL: Second.

11 MR. PARKS: All in favor, say aye.

12 (Vote is taken.)

13 MR. PARKS: Keith, QA requirements that  
14 you want to discuss?

15 MR. WHITTINGTON: Yes. Several of the  
16 interviews that I conducted this morning have an officer and  
17 a QA or -- and a lot of times a QA with a power of attorney  
18 representing the company appear before the board, even  
19 though every single point of the licensure has already been  
20 met, has already been reviewed by staff.

21 And a lot of these people are from large  
22 companies that come from great distances. We have talked  
23 amongst ourselves this morning, some as far away as Oregon,  
24 Utah, Michigan, Florida, Alabama, Louisiana, North Carolina.  
25 We have had them from Virginia today. And they have met all

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1 the requirements of our license.

2 And I feel as though when they meet all  
3 of these requirements, that we are unnecessarily causing  
4 them the burden of travel to come in to appear before the  
5 licensing board for a two-minute interview. I think that we  
6 should discuss this.

7 I know I have talked to two or three and  
8 they say, well, you know, there is pros and cons, you've got  
9 professional test takers that perform the services and  
10 duties of a qualifying agent for many different companies,  
11 but I think that we should discuss the fact that we could  
12 require that the QA have been employed for the company for a  
13 minimum of six months to a year. We already require that if  
14 the QA were to leave the company, the company no longer has  
15 a license. I think that they --

16 MR. PARKS: (Interposing) -- Ninety (90)  
17 days. They have got 90 days to relicense.

18 MR. WHITTINGTON: They have ninety days  
19 to replace them. So, I just feel like that if they meet it,  
20 we would treat them as a waived applicant and let a member  
21 of the board sign off, provided that they meet those  
22 requirements.

23 And then, naturally, there were some  
24 that did come in that had questions and things wrong with  
25 the application and they should come on in for an interview.

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9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 I guess I just wanted to bring the question up for  
2 discussion by the board to see what everyone else thought.

3 MR. PARKS: In years past, it was  
4 discussed at length; right, Reece?

5 MR. SMITH: Yeah.

6 MR. PARKS: Because he is the only one  
7 who was here that long, that far back, I think, when the QA  
8 thing actually came about.

9 MR. SMITH: I see what he is talking  
10 about. And it is -- and people have millions of dollars in  
11 that emerging account when they came in and checked his  
12 blood pressure and -- (Inaudible) -- and then sent him back  
13 home.

14 MR. PARKS: And I don't have a problem  
15 with it and certainly if a resume' on the QA was attached  
16 and that resume' either showed, you know, a long history of  
17 being at one company, and even if it is a brand new history  
18 of a new company -- (Inaudible) --

19 I have seen many a case of very small  
20 companies where the QA was often, most often a male, he  
21 died, his wife kept the company going, she hired somebody to  
22 run it. So, that upsets your and they have got to be there  
23 a while thing. But that was properly explained to us and  
24 then that has happened and a change of QA mode versus a new  
25 adaptation mode, but the principle is the same.

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1 How are we going to get around page 60,  
2 paragraph F?

3 MR. SMITH: Well, you probably wrote it.

4 MR. PARKS: Yeah, I mean, we put that  
5 rule in there. I was around then. We put that rule in  
6 recently. Probably Cliff, too.

7 MR. PUGH: One of you tell us if we can,  
8 by policy, considering --

9 MR. SMITH: (Interposing) -- What does  
10 it cost to travel today versus ten years ago.

11 MR. PUGH: And that was probably written  
12 in the '96 -- I bet that was in the '96 amendment -- January  
13 31, '96 amendment, I bet, when that went out.

14 Okay. This paragraph 3, under this  
15 rule, the top, the whole paragraph: "In order to obtain a  
16 certificate authorizing the applicant to operate as a  
17 contractor, the following persons must obtain a successful  
18 score on the examination in the appropriate classification,  
19 and may be required to appear before the board for an  
20 interview." It doesn't say "shall." It says "may."

21 MR. PARKS: So, that makes all of that  
22 optional?

23 MR. PUGH: That makes all of the process  
24 optional.

25 MR. PARKS: Well, and that is the reason

1 we don't interview everybody.

2 MR. PUGH: It may be required.

3 MR. PARKS: Well, then, we can adopt a  
4 policy that when it is a non-owner -- Don't brag yet. We  
5 could adopt the policy when it is a non-owner officer,  
6 someone without an ownership interest unless they provide a  
7 resume' and, you know, satisfactory proof of employment.

8 MR. SMITH: Is that one thing we are  
9 going to ask staff to --

10 MR. PARKS: (Interposing) -- Well, the  
11 board members who reviews these waive 5 eventually.

12 MR. SMITH: True.

13 MR. PARKS: Supposedly.

14 MR. TICKLE: Yeah. Are you going to put  
15 a title up for how long -- (Inaudible)

16 MR. PARKS: (Interposing) -- I don't  
17 think we can do that, because of the circumstances. If a QA  
18 died, I have seen so many small companies and the example I  
19 just used where the QA dies that the wife or the spouse  
20 hires a new QA person to carry on to manage the business.

21 MR. NEAL: Well, just as sure as we put  
22 all of our needs down to one day, we won't have ten  
23 applicants to interview if we waive everybody that is a QA  
24 and we waive all the rest of them that is a QA, we can do it  
25 all in half a day or less and go home. We can have this

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9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 business meeting. We can have it done in one day, because  
2 you know how many we waive now.

3 MR. PARKS: Oh, yeah.

4 MR. NEAL: And if you add to that the  
5 QA's, you will only have a few headache ones to come in, and  
6 that's all.

7 MR. SMITH: Well, they stop them before  
8 they get there.

9 MR. NEAL: And if that is the case, I  
10 mean, the ten headaches, we could probably settle those over  
11 the phone. And if he says, hey, I've got everything except  
12 this right here and I say, Reece says or Larry says or  
13 anybody says, we can get this and then call me back. And  
14 they wouldn't have to come in, either. I don't disagree  
15 with what you are saying. I have had a number of them come  
16 all the way from California.

17 MR. PARKS: I know.

18 MR. NEAL: It is really a pain in the --  
19 but --

20 MR. PARKS: And it increases --  
21 (Inaudible) -- changes -- (Inaudible) -- versus we waive the  
22 new ones. (Inaudible) -- like if they have to flag those to  
23 try to -- (Inaudible) -- and get in the mode of brain  
24 numbness if you want to do one after the other.

25 (Inaudible) -- And when you are aware of that situation,

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00050

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 since you flagged it, there is that question.

2 MR. NEAL: In other words, just say this  
3 is a QA?

4 MR. PARKS: Yeah. This is a -- You  
5 know, QA is not in my summary. There is a little sticky  
6 note on that, but -- (Inaudible) -- time crunch you get  
7 under.

8 I guess we are in agreement on --

9 MR. SMITH: Yeah, we sort of have to  
10 wait on the interview process.

11 MR. HUNT: Well, what is the pitfall of  
12 not having the non-owner QA come in for that interview?  
13 What are we going to miss out on?

14 MR. WHITTINGTON: A professional test  
15 taker.

16 MR. PARKS: Kelly knows. Somebody even  
17 brought me one today they thought was a professional test  
18 taker.

19 MR. HUNT: I did. I had a guy, he is  
20 the qualifying agent probably in about 25 states for this  
21 one company.

22 MR. PARKS: And he is not an owner, is  
23 he?

24 MR. HUNT: Right. He is not an owner.  
25 And that is all he can do, is --

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1 MR. SMITH: And he was an employee?

2 MR. HUNT: Yeah. They have been  
3 accumulated over about a eight or nine year period, so --

4 MR. PARKS: Did you get your question  
5 answered?

6 MR. HUNT: Yeah. I'm just trying to  
7 think of the down side to taking this step.

8 MR. PARKS: You just have to --  
9 (Inaudible) -- and ask another question -- (Inaudible) -- or  
10 ask a further question.

11 MR. SMITH: Can we ask for a pay stub, a  
12 W-2 or something?

13 MS. LAZENBY: (Affirmative Nod of Head)  
14 To prove that they have been there for six months?

15 MR. SMITH: I mean, like, you know,  
16 if --

17 MR. PARKS: I think if we ask for a  
18 resume' on the QA, whether he is non-owner or owner, you  
19 know, that is -- they are perjuring themselves if they  
20 falsify that.

21 MR. NEAL: Well, if we are going to do  
22 that, we are going to have to put some kind of rule in  
23 effect or policy or something.

24 MR. PUGH: I'm not completely familiar  
25 with the policy.

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1 MR. PARKS: Right.  
2 MR. HUNT: But you know what? I'm for  
3 moving forward with it. If we run into problems, we can  
4 always change it.  
5 MR. PARKS: Yeah. We are still the only  
6 states that does them.  
7 MR. PUGH: I'm looking at the  
8 corporation partnership statute. And it says that  
9 corporations and partnerships may engage in the business of  
10 contracting, provided at least one of the major stockholders  
11 are at least a full-time employee. (Inaudible) And as an  
12 employee, they have to have the power to bind the work  
13 relationship.  
14 MS. LAZENBY: Do we need to redo our --  
15 (Inaudible)?  
16 MR. PARKS: Wayne, can we dismiss the  
17 requirement for a resume' on a non-officer, a non-owner, a  
18 QA?  
19 MR. PUGH: A resume' or something to  
20 prove employment?  
21 MR. PARKS: Yeah.  
22 MR. PUGH: I think you could do that.  
23 MS. LAZENBY: And then -- (Inaudible) --  
24 MR. PARKS: Could we say about policy  
25 reduction, you know, to the board's satisfaction proof of

00053

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 employment, full-time employment?  
2 MR. PUGH: And authority to bind the  
3 company.  
4 MR. PARKS: Yeah.  
5 MR. PUGH: I think you could do that.  
6 MR. PARKS: Maybe you can strengthen the  
7 power of attorney under, you know, penalty of perjury, I do  
8 so swear that --  
9 MS. LAZENBY: Right now with all of  
10 the -- (Inaudible) -- says is I'm going to act as --  
11 (Inaudible)  
12 MR. PARKS: Yeah. Maybe we need to do  
13 that.  
14 MR. PUGH: Do we have a power of  
15 attorney form?  
16 MR. PARKS: We hadn't had --  
17 MR. NEAL: Above nine, could we say ten  
18 years of age and full-time employee or officer and is trying  
19 to act at a qualifying agent on the company's behalf, take  
20 the examinations and/or interview in applying for a  
21 Tennessee contractor's license pursuant to TCA Rule 6915:  
22 "Employee officer has sufficient knowledge of the defined  
23 corporation or partnership." So, it says that he can  
24 bind --  
25 MR. PUGH: (Interposing) -- Has  
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1 sufficient knowledge?  
2 MR. NEAL: Yeah.  
3 MR. PUGH: Yeah, we probably ought to  
4 reword that one. What does 62-6-615 say?  
5 MR. PARKS: I think that is where you  
6 were reading from, find the corporation first has sufficient  
7 knowledge of the business in which the person is licensed to  
8 perform.  
9 MR. NEAL: No, that is not -- I was  
10 reading Rule 62-6- --"  
11 MR. PUGH: What page?  
12 MS. LAZENBY: Right here.  
13 MR. NEAL: This power of attorney takes  
14 care of it all. It just says he has sufficient knowledge.  
15 (Inaudible)  
16 MS. LAZENBY: You can try it.  
17 MR. NEAL: It says on this power of  
18 attorney down there at the bottom too that we would have --  
19 (Inaudible)  
20 MS. LAZENBY: Yeah. We can fix that.  
21 MR. PARKS: Are we happy on that?  
22 MS. LAZENBY: So, is that what we will  
23 start doing now, is not interviewing?  
24 MR. PARKS: It will be set up for the  
25 board member to look at the file and determine --  
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00055

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1 (Inaudible) -- There will be some, a few, that will still  
2 have to be brought in or come in. Then, whoever gets them  
3 to waive will have to -- (Inaudible)

4 MR. SMITH: They might need a little bit  
5 more than 4 or 5 days to get it filed, because if they do  
6 have to come in and they are coming from Osh Kosh --  
7 (Inaudible)

8 MR. PARKS: Yeah. And, you know, I  
9 think -- Send this to me. And I know you were getting  
10 bombarded on the 20th in the, you know, the latter part of  
11 the month for -- (Inaudible) -- I would much rather have  
12 that kind of trouble than that kind of trouble.

13 MR. SMITH: And I think we could look at  
14 those waivers and it is --

15 MR. PARKS: Yeah.

16 MR. SMITH: They are licensed in twelve  
17 states and you have got \$10 million working, they are not  
18 running a ringer in here to take this test.

19 MS. DeBUSK: Our next board meeting,  
20 next November 18th, is that okay with everyone here?

21 MR. PARKS: You asked me that this  
22 morning.

23 MS. LAZENBY: Tuesday.

24 MR. PUGH: You were talking about rules  
25 earlier, Mr. Chairman. That is one rule that you need to

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00056

9/23/08 BOARD FOR LICENSING CONTRACTORS MEETING

1 change.

2 MR. PARKS: Yeah, and we would like to  
3 change to back it up. The law says six times a year.  
4 Otherwise, we could meet the week after Thanksgiving. That  
5 is just the first week of December, which is when we have  
6 done this for the renewal. You know, personally I would  
7 prefer Wednesday, the 19th, if we know it is going to be a  
8 one-day, but I can be here on the -- (Inaudible)

9 MS. LAZENBY: I think we've got the 18th  
10 and 19th.

11 MR. PARKS: I hear two Wednesdays. Do I  
12 hear other Wednesdays?

13 MR. NEAL: I cannot be here that date.  
14 (Off the record discussion)

15 MR. PARKS: All right. Anything else to  
16 come before the board today?

17 (Nothing indicated)

18 MR. PARKS: Reconvene at 9:00 tomorrow  
19 morning for a rulemaking. We stand adjourned.

20 Thereupon, the hearing adjourned.  
21 \* \* \* \* \*

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00057

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C E R T I F I C A T E

I do hereby certify that the foregoing transcript is a true, complete, and accurate record of the proceedings had in the board meeting of the Board for Licensing Contractors.

I do hereby further certify that I am of neither kin, counsel nor interest to any party hereto.

---

James G. Parks  
Court Reporter

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